

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SCOTT FRANCIS ICEBERG,

Plaintiff,

v.

UNIVERSITY OF WASHINGTON,

Defendant.

Case No. C21-494RSM

ORDER OF DISMISSAL

This matter comes before the court *sua sponte*. Pro se Plaintiff Scott Francis Iceberg filed this case with an unsigned proposed complaint. Dkt. #1-1. The Court mailed Mr. Iceberg its standard notice of deficiency letter. Dkt. #3. This letter states:

The Complaint as filed was not properly signed. Your document(s) must contain a physical signature and be resubmitted for filing to the Clerk. Signatures must be in accordance with Federal Rule of Civil Procedure 11 and Local Civil Rule 83.2.... Please return the requested documents to the address listed above. Failure to do so may affect the status of your case, including dismissal of the action by the Court.

*Id.* A few days later the Court received from Mr. Iceberg a new copy of his proposed complaint. On the signature line, Mr. Iceberg simply wrote “Fuck ya.” Dkt. #7 at 11.

Mr. Iceberg has submitted obscene material before. In Case No. 2:20-cv-00742, Dkt. #16, Mr. Iceberg mailed the Court a document titled “RESPONSE CAPTAIN NIP FLIPPER

1 SS FLIPPER NIPS JESUS CAPTAIN SAUCE DID A FLIP ON MY NIPS AND BACKFLIP  
2 OVER MY WANG.” The filing contains the f-word and further obscene material. In Case No.  
3 2:20-cv-01595, Dkt. #23 at page 8, Mr. Iceberg drew a stick figure man making an obscene  
4 gesture with his penis in his “Response in Opposition to Defendants’ Motion to Dismiss First  
5 Amended Complaint.”

6  
7 Mr. Iceberg is no stranger to the requirements of filing a case in this Court. He has filed  
8 eleven cases here in the last six years and has signed many filings. The Court is aware that Mr.  
9 Iceberg has previously referenced disabilities that cause him to respond “inappropriately or  
10 nonsensically” when “engaging in adversarial interactions, especially with individuals in  
11 positions of authority.” *See, e.g.*, Case No. 2:21-cv-00493, Dkt. #5 at 3. This does not justify or  
12 even explain his behavior here, as the notice of deficiency was not adversarial or particularly  
13 surprising—Mr. Iceberg has received many notices of deficiency in prior cases. This was not  
14 an “interaction” either; Mr. Iceberg had plenty of time to read the notice, write his offensive  
15 response, then address and mail it back to the Court.  
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17  
18 The Court finds that Mr. Iceberg has failed to submit a signed pleading as required by  
19 Rule 11 and that this case cannot proceed. Mr. Iceberg was warned that failure to submit a  
20 signed pleading could result in dismissal, and such is appropriate here. District courts have the  
21 inherent power to control their dockets and “[i]n the exercise of that power, they may impose  
22 sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of*  
23 *City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).  
24

25 In determining whether to dismiss an action for lack of prosecution, failure to obey a  
26 court order, or failure to comply with local rules, the Court considers several factors: (1) the  
27 public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its  
28

1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of  
2 cases on their merits; and (5) the availability of less drastic alternatives. *See Thompson*, 782  
3 F.2d at 831. In considering these factors, Mr. Iceberg's history of filing lawsuits weighs  
4 against any argument that he made an innocent mistake here, or that the public would benefit  
5 from allowing this lawsuit to proceed. The public policy favoring disposition of cases on their  
6 merits weighs against dismissal as a sanction. Whether there is a less drastic alternative, such  
7 as permitting Mr. Iceberg another opportunity to sign his Complaint, is an open question. If  
8 Mr. Iceberg had simply submitted another unsigned Complaint, the Court would have provided  
9 him with another notice of deficiency.  
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11  
12 However, dismissal is appropriate as a sanction for Mr. Iceberg's offensive response to  
13 this Court's reasonable request that he sign his Complaint, especially given Mr. Iceberg's  
14 history with this Court. *See, e.g., Koehl v. Greene*, 424 Fed. Appx. 61, 62 (2d Cir. 2011)  
15 (upholding dismissal of pro se complaint as a sanction for "repeatedly filing documents with  
16 the court that contained derogatory and offensive statements regarding the presiding magistrate  
17 judge and opposing counsel."). The Court notes that the obscene remarks are directed *at* the  
18 Court, showing a disregard for the Court's authority, and that this further constitutes a basis for  
19 dismissal.  
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21 Given all of the above, the Court hereby finds and ORDERS that this action is  
22 DISMISSED. This case is CLOSED.  
23

24 DATED this 21<sup>st</sup> day of April, 2021.

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26 

27 RICARDO S. MARTINEZ  
28 CHIEF UNITED STATES DISTRICT JUDGE